

## Surface Transportation Board, DOT

## § 1121.4

Commission's Uniform System of Accounts (49 CFR Part 1207).

[47 FR 36184, Aug. 19, 1982. Redesignated at 47 FR 49570, Nov. 1, 1982]

### § 1120.2 Purpose.

In any proceeding requiring the development of platform handling times for distribution of platform expense, carriers may use the results of the national weight formula contained in the Commission's study, *entitled 1977-1978 Motor Carrier Platform Study*, Statement 2S1-79.

[47 FR 36184, Aug. 19, 1982. Redesignated at 47 FR 49570, Nov. 1, 1982]

## PART 1121—RAIL EXEMPTION PROCEDURES

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AUTHORITY: 49 U.S.C. 10505; 5 U.S.C. 553.

SOURCE: 56 FR 46391, Sept. 12, 1991, unless otherwise noted.

### § 1121.1 Scope.

These procedures govern petitions filed under 49 U.S.C. 10505 to exempt a transaction or service from 49 U.S.C. subtitle IV, or any provision of 49 U.S.C. subtitle IV.

### § 1121.2 Criteria.

Under 49 U.S.C. 10505, the Commission must exempt a person, class of persons or a transaction or service from regulation when it finds that:

(a) Regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101a; and

(b) Either:

(1) The transaction is of limited scope; or

(2) Regulation is not necessary to protect shippers from the abuse of market power.

### § 1121.3 Petitions for exemption.

(a) A petition must comply with environmental or historic reporting and notice requirements of 49 CFR Part 1105, if applicable.

(b) If the exemption proposal involves the acquisition of a motor car-

rier by a rail carrier (or person who controls or is affiliated with a rail carrier) under 49 U.S.C. 11344(c), the petition must include sufficient information to show that the transaction:

(1) Is consistent with the public interest;

(2) Will enable the rail carrier to use motor carrier transportation to public advantage in its operations; and

(3) Will not unreasonably restrain competition.

### § 1121.4 Procedures.

(a) Proposals contained in a petition for exemption under 49 U.S.C. 10505 are considered on their own merit.

(b) Exemption proceedings are informal, and public comments are not sought during consideration of exemption petition proposals. However, the Commission may consider during its deliberation any public comments filed in response to a petition for exemption.

(c) If the Commission determines that the criteria in 49 U.S.C. 10505 are met for the proposed exemption, it will issue the exemption and publish a notice of the exemption in the FEDERAL REGISTER.

(d) If the impact of the proposed exemption cannot readily be ascertained from the information contained in the petition or accompanying submissions or if significant adverse impacts might occur if the proposed exemption were granted, the Commission, in its discretion, may:

(1) Direct that additional information be filed; or

(2) Publish a notice in the FEDERAL REGISTER requesting public comments.

(e) Exemption petitions containing proposals that are directly related to and concurrently filed with a primary application will be considered along with that primary application.

(f) Under 49 U.S.C. 10505(g), the Commission may not relieve a carrier from the statutory obligation to protect the interests of employees. Accordingly, the Commission will impose appropriate employee protective conditions in decisions involving transactions subject to mandatory labor protection. Where labor protection is not mandatory, the Commission will exercise its discretion and impose labor protection